

111TH CONGRESS
1ST SESSION

H. R. 225

To amend title 11 of the United States Code with respect to modification of certain mortgages on principal residences, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Mr. MILLER of North Carolina (for himself, Ms. LINDA T. SÁNCHEZ of California, Mr. FRANK of Massachusetts, Mr. WATT, Mr. ELLISON, Ms. LEE of California, Mr. COURTNEY, Mr. BLUMENAUER, Mrs. CHRISTENSEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BUTTERFIELD, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. SIRES, Mr. CAPUANO, Mr. HINCHEY, Mr. GEORGE MILLER of California, Mr. STARK, Mr. JOHNSON of Georgia, Mr. DAVIS of Alabama, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. COHEN, Ms. EDWARDS of Maryland, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 11 of the United States Code with respect to modification of certain mortgages on principal residences, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Homeown-
5 ership and Equity Protection Act”.

1 **SEC. 2. ELIGIBILITY FOR RELIEF.**

2 Section 109 of title 11, United States Code, is
3 amended—

4 (1) by adding at the end of subsection (e) the
5 following: “For purposes of this subsection, the com-
6 putation of debts shall not include the secured or
7 unsecured portions of—

8 “(1) debts secured by the debtor’s principal res-
9 idence if the current value of that residence is less
10 than the secured debt limit; or

11 “(2) debts secured or formerly secured by real
12 property that was the debtor’s principal residence
13 that was sold in foreclosure or that the debtor sur-
14 rendered to the creditor if the current value of such
15 real property is less than the secured debt limit.”;
16 and

17 (2) by adding at the end of subsection (h) the
18 following:

19 “(5) The requirements of paragraph (1) shall not
20 apply in a case under chapter 13 with respect to a debtor
21 who submits to the court a certification that the debtor
22 has received notice that the holder of a claim secured by
23 the debtor’s principal residence may commence a fore-
24 closure on the debtor’s principal residence.”.

1 **SEC. 3. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

2 Section 1322(b) of title 11, United States Code, is
3 amended—

4 (1) by redesignating paragraph (11) as para-
5 graph (12),

6 (2) in paragraph (10) by striking “and” at the
7 end, and

8 (3) by inserting after paragraph (10) the fol-
9 lowing:

10 “(11) notwithstanding paragraph (2) and other-
11 wise applicable nonbankruptcy law, with respect to a
12 claim for a loan made before the date of the enact-
13 ment of the Emergency Homeownership and Equity
14 Protection Act secured by a security interest in the
15 debtor’s principal residence that is the subject of a
16 notice that a foreclosure may be commenced, modify
17 the rights of the holder of such claim—

18 “(A) by providing for payment of the
19 amount of the allowed secured claim as deter-
20 mined under section 506(a)(1);

21 “(B) if any applicable rate of interest is
22 adjustable under the terms of such security in-
23 terest by prohibiting, reducing, or delaying ad-
24 justments to such rate of interest applicable on
25 and after the date of filing of the plan;

1 “(C) by modifying the terms and condi-
2 tions of such loan—

3 “(i) to extend the repayment period
4 for a period that is no longer than the
5 longer of 40 years (reduced by the period
6 for which such loan has been outstanding)
7 or the remaining term of such loan, begin-
8 ning on the date of the order for relief
9 under this chapter; and

10 “(ii) to provide for the payment of in-
11 terest accruing after the date of the order
12 for relief under this chapter at an annual
13 percentage rate calculated at a fixed an-
14 nual percentage rate, in an amount equal
15 to the then most recently published annual
16 yield on conventional mortgages published
17 by the Board of Governors of the Federal
18 Reserve System, as of the applicable time
19 set forth in the rules of the Board, plus a
20 reasonable premium for risk; and

21 “(D) by providing for payments of such
22 modified loan directly to the holder of the
23 claim; and”.

1 **SEC. 4. COMBATING EXCESSIVE FEES.**

2 Section 1322(c) of title 11, the United States Code,
3 is amended—

4 (1) in paragraph (1) by striking “and” at the
5 end,

6 (2) in paragraph (2) by striking the period at
7 the end and inserting a semicolon, and

8 (3) by adding at the end the following:

9 “(3) the debtor, the debtor’s property, and
10 property of the estate are not liable for a fee, cost,
11 or charge that is incurred while the case is pending
12 and arises from a debt that is secured by the debt-
13 or’s principal residence except to the extent that—

14 “(A) the holder of the claim for such debt
15 files with the court (annually or, in order to
16 permit filing consistent with clause (ii), at such
17 more frequent periodicity as the court deter-
18 mines necessary) notice of such fee, cost, or
19 charge before the earlier of—

20 “(i) 1 year after such fee, cost, or
21 charge is incurred; or

22 “(ii) 60 days before the closing of the
23 case; and

24 “(B) such fee, cost, or charge—

25 “(i) is lawful under applicable non-
26 bankruptcy law, reasonable, and provided

1 for in the applicable security agreement;
2 and

3 “(ii) is secured by property the value
4 of which is greater than the amount of
5 such claim, including such fee, cost, or
6 charge;

7 “(4) the failure of a party to give notice de-
8 scribed in paragraph (3) shall be deemed a waiver
9 of any claim for fees, costs, or charges described in
10 paragraph (3) for all purposes, and any attempt to
11 collect such fees, costs, or charges shall constitute a
12 violation of section 524(a)(2) or, if the violation oc-
13 curs before the date of discharge, of section 362(a);
14 and

15 “(5) a plan may provide for the waiver of any
16 prepayment penalty on a claim secured by the debt-
17 or’s principal residence.”.

18 **SEC. 5. CONFIRMATION OF PLAN.**

19 Section 1325(a) of title 11, the United States Code,
20 is amended—

21 (1) in paragraph (8) by striking “and” at the
22 end,

23 (2) in paragraph (9) by striking the period at
24 the end and inserting a semicolon, and

1 (3) by inserting after paragraph (9) the fol-
2 lowing:

3 “(10) notwithstanding subclause (I) of para-
4 graph (5)(B)(i), the plan provides that the holder of
5 a claim whose rights are modified pursuant to sec-
6 tion 1322(b)(11) retain the lien until the later of—

7 “(A) the payment of such holder’s allowed
8 secured claim; or

9 “(B) discharge under section 1328; and

10 “(11) the plan modifies a claim in accordance
11 with section 1322(b)(11), and the court finds that
12 such modification is in good faith.”.

13 **SEC. 6. DISCHARGE.**

14 Section 1328 of title 11, the United States Code, is
15 amended—

16 (1) in subsection (a)—

17 (A) by inserting “(other than payments to
18 holders of claims whose rights are modified
19 under section 1322(b)(11)” after “paid” the
20 1st place it appears, and

21 (B) in paragraph (1) by inserting “or, to
22 the extent of the unpaid portion of an allowed
23 secured claim, provided for in section
24 1322(b)(11)” after “1322(b)(5)”, and

1 (2) in subsection (c)(1) by inserting “or, to the
2 extent of the unpaid portion of an allowed secured
3 claim, provided for in section 1322(b)(11)” after
4 “1322(b)(5)”.

5 **SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

6 (a) **EFFECTIVE DATE.**—Except as provided in sub-
7 section (b), this Act and the amendments made by this
8 Act shall take effect on the date of the enactment of this
9 Act.

10 (b) **APPLICATION OF AMENDMENTS.**—The amend-
11 ments made by this Act shall apply with respect to cases
12 commenced under title 11 of the United States Code be-
13 fore, on, or after the date of the enactment of this Act.

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